



City of Arlington Council Agenda Bill

Item:
CA #3
Attachment
B

COUNCIL MEETING DATE:	
November 21, 2016	
SUBJECT:	
WSDOT ROW Procedures	
ATTACHMENTS:	
WSDOT ROW Procedures (DRAFT) WSDOT Waiver of Appraisal Procedure WSDOT Administrative Settlement Policy Procedure	
DEPARTMENT OF ORIGIN	
Public Works	
EXPENDITURES REQUESTED:	None
BUDGET CATEGORY:	N/A
LEGAL REVIEW:	
DESCRIPTION:	
Council is being asked to approve the attached Right-of-Way (ROW) acquisition and procurement procedures and policies; two are WSDOT procedures and one is an Administrative Settlement Policy procedure that the City has previously adopted for other projects.	
HISTORY:	
<p>The City will be procuring additional ROW as a part of several upcoming capital projects. Since a portion of these projects are federally funded, WSDOT and FHWA require the City adopt ROW acquisition and procurement procedures and policies compliant with WSDOT and federal ROW acquisition regulations. These procedures are attached as follows:</p> <ol style="list-style-type: none"> 1. WSDOT ROW Procedure 2. WSDOT Waiver of Appraisal Procedure 3. Administrative Settlement Policy Procedure <p>WSDOT has reviewed and approved these procedures.</p>	
ALTERNATIVES	
Remand to staff for additional edits. Reject the policy and procedures.	
RECOMMENDED MOTION:	
I move to approve the Right-of-Way (ROW) acquisition and procurement procedures and policies for the City of Arlington as attached, subject to final approval by the City Attorney.	

RIGHT OF WAY PROCEDURES

AGENCY: CITY OF ARLINGTON

The City of Arlington (“AGENCY”), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Chapter 8.26 RCW) and state regulations (Chapter 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The City of Arlington Public Works Department (“Department”) of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements, the Public Works (“Department”) will acquire right of way in accordance with the policies set forth in the WSDOT *Right of Way Manual* and *Local Agency Guidelines*. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the AGENCY’s request.
 - a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An AGENCY will be approved to acquire based upon staff qualifications.
 - (1) PROGRAM ADMINISTRATION
Public Works Director
City Administrator
 - (2) APPRAISAL
Contracted From WSDOT Approved List
 - (3) APPRAISAL REVIEW
Contracted From WSDOT Approved List
 - (4) ACQUISITION
Qualified Consultant
 - (5) RELOCATION
Qualified Consultant
 - (6) PROPERTY MANAGEMENT
Public Works Director
City Administrator
 - b. Any functions for which the Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be

given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.

- c. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued up to \$25,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual Appendix 25.176 has already been approved. The AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
 - d. Attach a copy of the Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.
- 2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right of way and construction stages and for a three year period following acceptance of the projects by WSDOT.
 - 3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

Approved

CITY OF ARLINGTON

Mayor

Date

Attest:

City Clerk

Date

Approved as to Form:

City Attorney

Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved By: _____

Local Programs Right of Way Manager

Date

WAIVER OF APPRAISAL

The City of Arlington (Agency) desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives and desiring to take advantage of the \$25,000.00 appraisal waver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation as follows:

Rules

- A. The City of Arlington (*Agency*) may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the PFE (Project Funding Estimate) is \$25,000.00 or less including cost-to cure items.
- B. The Agency must make the property owner(s) aware that an appraisal has not been done on the property and that one will be completed if they desire.
- C. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

- A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.
- B. The AOS is submitted to Public Works Director for approval.
- C. Public Works Director signs the AOS authorizing a first offer to the property owner(s).

APPROVED:

CITY OF ARLINGTON

By: _____
Mayor

Date

Attest:

City Clerk

Date

Approved as to Form:

City Attorney

Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved By: _____
Local Programs Right of Way Manager

Date

City of Arlington
RIGHT OF WAY ACQUISITION
ADMINISTRATIVE SETTLEMENT POLICY & PROCEDURES

The City of Arlington hereby agrees to implement the following policy and procedures to expedite the acquisition of real property by agreements with owners and to avoid litigation and relieve congestion to the courts. It is the city's intent to make every reasonable effort to expeditiously acquire real property by negotiation. Furthermore, the City of Arlington recognizes the inexact nature of the process by which just compensation is determined. Therefore, the implementation of the policies and procedures set forth are necessary in resolving differences with property owners:

1. Any administrative or stipulated settlement, which exceeds the fair market value, must be well documented and thoroughly justified.
2. The rationale for the settlement shall be set forth in writing.
3. The extent of written explanation is a matter of judgment and should be consistent with the circumstances and the amount of money involved.
4. The Consultant shall recommend to the Public Works Director or City Administrator that the proposed settlement should be approved.
5. The Public Works Director or City Administrator shall have authority to approve administrative settlements within the following ranges when it is determined that such action is in the public interest:

Just Compensation	Maximum Administrative Allowance
\$0 to \$100,000	10% of fair market value (\$10,000 max)
\$100,000 to \$200,000	5% of fair market value (\$20,000 max)

6. The City Council shall have authority to approve administrative settlements outside the above ranges, when it is determined that such action is in the public interest.
7. In arriving at a determination to approve an administrative settlement, the Public Works Director, City Administrator, and the City Council must give full consideration to all pertinent information, but not limited to the following:
 - (a) All available appraisal, including the owner's and the probably range of testimony in a condemnation trial.
 - (b) The ability to acquire the property, or possession, through the condemnation process to meet the construction schedule.
 - (c) The negotiator's recorded information.

- (d) Recent court awards in cases involving similar acquisition and appraisal problems.
- (e) Likelihood of obtaining an impartial jury in local jurisdictions, opinion of legal counsel where appropriate.
- (f) Estimate of trial cost weighted against other factors.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of this _____ day of _____, 2016.

Approved by:

Mayor

Date

Attest:

Asst. City Administrator/City Clerk

Date

Approved as to Form:

City Attorney

Date